IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 27663 of 2006(R)

PETITIONER:

JOJO JOSEPH, S/O.JOSEPH,
PARECATTIL HOUSE, KIDANGOOR P.O.,
(VIA) ANGAMALLY, ERNAKULAM DISTRICT.

BY ADV. SRI.WILSON URMESE.

RESPONDENTS:
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1. **THE CHIEF MANAGER,**
   KERALA FINANCIAL CORPORATION,
   BRANCH OFFICE, KALOOR, KOCHI-17.

2. **THE KERALA FINANCIAL CORPORATION,**
   REP.BY ITS MANAGING DIRECTOR, VELLAYAMBALAM,
   THIRUVANANTHAPURAM-33.

3. **THE DEPUTY TAHSILDAR (RR),**
   KERALA FINANCIAL CORPORATION,
   ERNAKULAM.

BY ADV. SRI.M.M.SAYED MUHAMMED, SC, KFC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.27663/2006-R:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE JUDGMENT IN O.P. 28295/02 OF THIS HONOURABLE COURT.

EXT.P.2: COPY OF THE CALCULATION STATEMENT PRODUCED AS EXT.P.10 IN O.P. NO. 28295/02 BY THE PETITIONER.

EXT.P.3: COPY OF THE SURVEY MAP SHOWING THE DIVISIONS MADE BY THE PETITIONER IN HIS LAND FOR SELLING IT TO THE PROSPECTIVE PURCHASERS.

EXT.P.4: COPY OF THE REPRESENTATION DTD. 30/09/2005 SUBMITTED TO THE R.1.

EXT.P.5: COPY OF THE NOTICE OF SALE OF IMMOVABLE PROPERTY VIDE NO. 12/03/RR/KFC/2176/06 DTD. 31/08/2006 OF THE R.3.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

V.GIRI,J.

W.P (C) No. 27663 of 2007

Dated this the 2nd November, 2007

J U D G M E N T

Petitioner availed a term loan of Rs.14 lakhs from the Kerala Financial Corporation in the year 1999. He defaulted repayment of the same. The Corporation initiated Revenue Recovery Proceedings against the petitioner. They proposed to sell the property mortgaged by the petitioner. Petitioner requested the Corporation for a facility to pay the amount under the One Time Settlement Scheme. The Corporation sanctioned One Time Settlement facility and permitted the petitioner to close the loan account by remitting Rs.15,00,000/- together with revenue recovery charges and other expenses on or before 29.8.2003. Time for payment was extended upto 15.9.2003. Petitioner could pay an amount of Rs.1,00,000/- alone. One Time Settlement facility afforded by the Corporation could not be availed by the petitioner.

2. Subsequently, the property belonging to the petitioner was again brought to sale. This is evidenced by Exhibit -P5 notice issued under Section 49 of the Kerala Revenue Recovery Act, 1968. While admitting the writ petition

this Court passed the following interim order on 20.10.2006:

> "Admit. Standing Counsel took notice for respondents 1 and 2. Notice by speed post to R3. The 3rd respondent shall try to sell the property notified as per Exhibit-P5 as separate plots, one by one, as sub divided in Exhibit-P3. The petitioner shall produce a copy of this order along with the copy of this writ petition before the 3rd respondent, within three days from today."

3. Apparently, the Tahsildar considered the feasibility of selling the mortgaged property in plots. Though the Tahsildar has not filed any statement or counter affidavit, the Corporation in its counter affidavit refers to a communication sent by the Tahsildar stating that the sale of the property in plots may not be feasible.

4. I heard the learned counsel for the petitioner and the learned Standing Counsel for the Corporation. The fact remains that the petitioner is a defaulter as regards the loan availed from the Financial Corporation. The amount will have to be repaid. Initiation of action under Revenue Recovery Act for recovery of the amount due to the Corporation cannot thus be faulted. Learned counsel for the petitioner at this juncture submits that the petitioner is willing to pay the amount which the Corporation had determined as payable under One Time

Settlement Scheme in 2003. In paragraph 4 of the affidavit filed by the Corporation it is stated that the Corporation had sanctioned One Time Settlement facility to close the loan account by remitting Rs.15 Lakhs with revenue recovery charges and other charges on or before 29.8.2003. He further prays that the Corporation may consider whether the petitioner could be permitted to pay the said amount of Rs.15 Lakhs with interest from 15.9.2003 till the date of payment along with expenses and revenue recovery charges, less the amount which has already been paid subsequent to that.

5. In the circumstances, I am of the view that the Corporation may consider this offer on the part of the petitioner. This writ petition is disposed of directing the 2nd respondent to consider the offer made by the petitioner in the manner aforementioned . I make it clear that I am not expressing any opinion on the acceptability of the offer made by the petitioner and it is upto the Corporation to take a decision in that regard.

The Petitioner may therefore, file a representation indicating his offer within two weeks from today before the 2nd respondent. If such representation is received, within the time

mentioned above, the 2nd respondent shall take a decision thereon, within four weeks thereafter. The petitioner shall also pay an amount of Rs.5 Lakhs , within a period of four weeks from today, only if the petitioner pays the said amount, the Corporation will be required to consider the petitioner's representation. Sale of the property pursuant to Exhibit-P5 shall be kept in abeyance pending a decision by the 2nd respondent in the manner aforementioned.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007